

## **REMARKS/ARGUMENTS**

This amendment is submitted in response to the Office Action dated December 19, 2005. After entry of this amendment, claims 1 and 3-14 will be pending in the application. Reconsideration and allowance is respectfully requested in view of the remarks made below.

### ***1. The Objection to the Drawings***

Formal Drawings are being submitted herewith in response to the Objection to the Drawings that was contained in paragraph 1 of the Office Action. Entry and Approval of the Formal Drawings and withdrawal of the Objection to the Drawings is respectfully solicited.

### ***2. The Prior Art Rejections***

Original claims 1, 7, 11 and 12 were rejected under §102(b) based alternatively on U.S. Patent 6,491,175 to Taha (“Taha”), U.S. Patent 4,572,387 to Luker et al. (“Luker”) and WO 94/14672 to Kirchgessner et al. (“Kirchgessner”). In addition, original claims 2-6 and 8-10 were rejected under §103(a) based alternatively upon the same three references. Additionally, Claims 1-12 were rejected under §103 based on U.S. Patent 6,625,227 to Ekkert (“Ekkert”).

Independent claim 1 has been amended to set forth the limitations that were previously included in dependent claim 2 and now reads as follows:

1. A plastic closure for a container, comprising:
  - a top wall;
  - a downwardly depending substantially cylindrical skirt that is unitary with said top wall, said skirt defining inner and outer surfaces and further defining a lower rim at a distal, bottom end thereof;
  - at least one thread that is defined on said inner surface of said skirt; and
  - reinforcing means defined on said skirt in an area between said lower rim and a lowermost thread on said inner surface that is at least 0.05 inches in maximum thickness for enhancing the dimensional integrity of the closure during opening.

In the preferred embodiment, the “maximum thickness” is depicted by dimension  $W_T$  in FIGURE 3. By constructing the maximum thickness of at least 0.05 inches, a substantial increase in closure hoop strength is achieved. The Office Action takes the position that no

“criticality” is attached to the ranges set forth in the specification and claims, but the specification is clear that (1) the purpose of the reinforcing structure is to improve the dimensional integrity of the closure during opening by increasing the hoop strength at the base of the closure; and (2) that the preferred thickness of the reinforcing structure for achieving this purpose is at least 0.05 inches. It is clear that Applicant considered substantially 0.05 inches to be an important minimum thickness for achieving the hoop strength necessary to improve the dimensional integrity of the closure during opening.

None of the applied references disclose or suggest in any way a reinforcing means defined on a skirt in an area between a lower rim and a lowermost thread on an inner surface of a closure that is at least 0.05 inches in maximum thickness for enhancing the dimensional integrity of the closure during opening. This feature of the invention is not disclosed or suggested in Taha, Luker et al., Kirchgessner or Ekkert.

Applicant respectfully submits that it would be improper to apply a §103(a) rejection to the amended claims. A §103(a) rejection involving the modification of the structure described in one or more references requires some suggestion or incentive that would have led a person having ordinary skill to make the modification. As MPEP 2143 explains:

**2143 Basic Requirements of a *Prima Facie* Case of Obviousness**

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

There is clearly no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, that would have led a person skilled in the art at the time Applicant's invention was made to modify Taha, Luker et al., Kirchgessner or Ekkert in order to achieve the invention that is set forth in amended claim 1. Accordingly, Applicant respectfully submits that claim 1 patentably defines over the prior art of record.

**3. Conclusion**

Applicant has made an earnest effort to place this application in condition for allowance. If the Examiner feels that a telephone interview would expedite prosecution of this patent application, she is respectfully invited to telephone the undersigned at his direct dial (215-599-0602) or at the main number listed below. E-mail communications to [jknoble@patentwise.com](mailto:jknoble@patentwise.com) are authorized.

Respectfully submitted,

/JLK/

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